

ORIGINAL

FILED

August 31 2009

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0311

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CARL MELVIN ANKENY,

Defendant and Appellant.

FILED

AUG 31 2009

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Kelli S. Sather, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until October 8, 2009, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 31st day of August, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
301 South Park, Room 568  
P.O. Box 200145  
Helena, MT 59620-0145

By: 

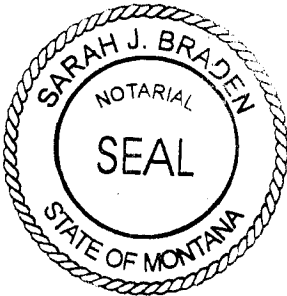
KELLI S. SATHER

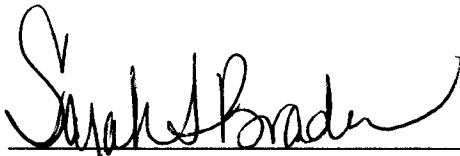
Assistant Appellate Defender

7. Further your affiant sayeth naught.

  
\_\_\_\_\_  
Jim Wheelis

SUBSCRIBED AND SWORN to before me this 31<sup>st</sup> day of  
August, 2009.



  
\_\_\_\_\_  
Sarah J. Braden  
Notary Public for the State of Montana  
Residing at Helena  
My commission expires 1/25/2011

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Jim Wheelis, being first duly sworn upon my oath, depose and state as follows:

1.     I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as the Chief Appellate Defender.

2.     In my capacity as Chief Appellate Defender, I have assigned Kelli S. Sather to handle the above-entitled matter.

3.     The Appellant's brief was first due on August 5, 2009. The brief is presently due on September 8, 2009.

4.     Ms. Sather currently has two other matters due the same week. On September 7, 2009, counsel has a Reply brief due in State v. Hofman, DA 09-0208. On September 11, 2009, counsel has an opening brief due in State v. Houghton, DA 09-0402. Counsel is not able to complete all three briefs due within the same week.

5.     Counsel will work diligently to complete the matter in the time requested.

6.     Opposing counsel has been contacted concerning this motion and does not object.

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing

Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
P.O. Box 201401  
Helena, MT 59620-1401

JOAN BORNEMAN  
Deer Lodge County Attorney  
800 South Main  
Anaconda, MT 59711-2999

CARL ANKENY 30909  
Montana State Prison  
700 Conley Lake Road  
Deer Lodge, MT 59722

DATED: 8-31-2009      J. S. White